



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,143	02/20/2004	John D. Wilkey	2039.018800/RFE (210631US)	5387
37774	7590	12/27/2005	EXAMINER	
WILLIAMS, MORGAN & AMERSON 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			MULLIS, JEFFREY C	
			ART UNIT	PAPER NUMBER

1711

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/784,143

**Applicant(s)**

WILKEY ET AL.

**Examiner**

Jeffrey C. Mullis

**Art Unit**

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12-15-05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-16,18-32 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-16,18-32 and 34-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 1711

All previous rejections are hereby withdrawn.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-16, 18-32 and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshi et al. (WO 03/091303).

It is noted that US 2005/0222331 corresponds to the above document, cited by applicants and therefore as the US document is in English reference will be made to the US document.

Patentees disclose a styrenic block copolymer which may be tapered (paragraph 57) and coupled (paragraphs 56 and 105) and which may have applicants molecular weights (abstract) and be combined with a one or more of a "vinyl aromatic hydrocarbon polymer", "component (B)" in a ratio of 99/1-30/70 (paragraph 70). The component "B" may include SB rubber (paragraph 78) at a level of preferably up to 10 parts by weight (paragraph 79) as well as applicants styrene/acrylate copolymers (paragraphs 74 and 75).

All of applicants limitations are therefore taught by patentees by there are no actual examples of compositions having all of applicants limitations in combination at the same time. However to arrive at applicants composition by choosing from the disclosure of the reference would have been obvious to a practitioner having an ordinary skill in the art at

Art Unit: 1711

the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

It is noted that WO '303 was earlier cited by applicants and considered by the examiner. Regretfully, the English language abstract of the WO patent makes no mention of patentees components a-c (applicants component ii and iii), coupling or tapered blocks and was therefore assumed not relevant. Unfortunately the US application was published only recently.

This Office action is not being made final.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis  
J Mullis  
Art Unit 1711

JCM

12-22-05

**Jeffrey Mullis  
Primary Examiner  
Art Unit 1711**

A handwritten signature in black ink, appearing to be 'JCM', is written below the printed name and title of the examiner.